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FEDERAL COMMUNICATIONS COMMISSION  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
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Amendment of Parts 2 and 22 of the )  
Commission's Rules to Establish )  
an Enhanced Narrowband Data and )  
Paging Service in the 930-931 MHz )  
Range )

ET Docket No. 92-100

To: The Commission:

**COMMENTS ON TENTATIVE DECISION FOR 900 MHZ  
NARROWBAND PCS PIONEER'S PREFERENCES**

Global Enhanced Messaging Venture (the "Joint Venture"), a joint venture of Message Center Beepers, Inc. (Message Center) and RTS Electronics, Inc. (RTS),<sup>1/</sup> by its attorneys, hereby submits its comments on the tentative denial of its request for a pioneer's preference in the 900 MHz band proposed to be allocated by the Commission for narrowband PCS services. In particular, GEM believes that the technical demonstration submitted in support of its proposed enhanced narrowband data and paging service, to be called Global Enhanced Messaging (GEM), warranted a grant of a pioneer's preference for either a regional or nationwide system. The

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- 1/ The Joint Venture is owned one-half by Message Center and one-half by RTS. The venturers bring to this proposal many decades of experience in the paging industry. RTS is controlled by Real Time Strategies, Inc. (Real Time), with a minority interest held by Message Center. Real Time is based on Long Island, New York. The principals of Real Time are Jay Moskowitz, its president, and Spencer Kravitz, its executive vice president, both of whom are providing technical counsel to the Joint Venture. The qualifications of Messrs. Moskowitz and Kravitz and of Message Center were set forth in GEM's "Demonstration of Technical Feasibility and Request for Pioneer's Preference" (Request) at paras. 9, 10 and 11.

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Joint Venture's proposal to utilize a unique radio paging transmission format would result in a vast improvement in the capabilities of a system utilizing the same channel bandwidth as that presently used in the paging industry. The Commission failed to weigh properly the substantial technological and service innovations which would be brought to the nation's paging industry by the GEM proposal. The tentative decision should be reversed and the Joint Venture awarded a pioneer's preference.

In its "Request," GEM presented substantial evidence of the benefits of alphanumeric paging systems and described the factors which have limited the development of such systems in the United States. (Request, paras. 12 - 21). It described the manner in which the Pagentry<sup>tm</sup> receivers already developed by RTS could advance the utilization of alphanumeric paging through a GEM system, although the GEM system would support traditional paging receivers as well. (Request, paras. 22-30). These devices will permit GEM to offer facsimile capability, service to the hearing-impaired and data communications capability through its system (Request, paras. 24-28). GEM submitted extensive information regarding the way in which the Pagentry devices work. (Request, pages 18-26). When used in a GEM system with its proposed radio paging transmission format, the standard industry 25 kHz channel would support a data transmission speed in excess of 6,250 bits per second, as

compared to the 2,400 bit-per-second maximum currently in commercial service. (Request, paras. 31-37). The need for dedicated paging channels to achieve these capabilities for the GEM system was also described. (Request, para. 38).

The Commission all but summarily dismissed GEM's proposal by erroneously comparing the throughput of GEM's 25 kHz system to the 50 kHz system proposed by Mtel. Moreover, the Commission appeared to penalize GEM because it had not conducted an experiment. Notice of Proposed Rule Making and Tentative Decision, 7 FCC Rcd 5676, 5739. The Commission accordingly failed to follow its own announced policy that it "would analyze technical showings as rigorously as the results of experiments to ensure that a preference applicant's proposed new service or technology is viable and worthy of a preference." Memorandum Opinion and Order in GEN Docket No. 90-217, 7 FCC Rcd 1808, 1809 (1992).

The Commission correctly stated the requirements for granting a pioneer's preference. NPRM and Tentative Decision in Gen Docket No. 90-314/ET Docket No. 92-100, 7 FCC Rcd at 5734. As demonstrated below, however, the Commission failed to correctly apply these factors to the Joint Venture and its GEM proposal.

(1) whether the requester has demonstrated that its proposal constitutes a significant communications innovation.

The Joint Venture has amply demonstrated that the Pagentry

devices when used in a GEM system would greatly advance the ease of use of alphanumeric paging and also greatly enhance the speed and capacity of a standard 25 kHz paging channel.

(2) whether the requester is the party responsible for the claimed innovation. The Joint Venture has described the patent pending devices and systems which would be used in the GEM system. These proprietary systems belong to joint venturer RTS, the principals of which are well-known innovators in the paging industry.

(3) whether it has made a significant contribution in developing that innovation. Although based in part on European standards and technology, the advances added by the research and development of RTS clearly establish the technology as its own, as described extensively in the Joint Venture's Request (paras. 39-62).

(4) whether the innovation reasonably will lead to establishment of a service not currently provided or substantially enhance an existing service. The substantial improvement in paging speed and efficiency and the substantial enhancement of the utility of the GEM system as compared to present alphanumeric paging systems have been extensively described in the previously cited portions of the Joint Venture's Request, and the future benefits for frequencies presently being used by paging systems were also described (Request, para. 63-64).

The Joint Venture has not filed separate comments in response to the rule-making aspect of the Notice. It urges the Commission, however, not to overlook the kinds of advanced messaging services proposed by Telocator Network of America (Telocator) in its Petition for Rulemaking (RM-7617). Services like GEM which require only a single channel and proposed services which require asynchronous two-way capability can be accommodated in addition to duplex "narrowband PCS services" envisioned by the Commission.

GEM partner RTS holds the proprietary rights to the design of the Pagentry devices as well as to the alphanet paging format which will be incorporated in the GEM system. As it has previously committed, RTS will make the devices and the format available for use by the Joint Venture and will also make them available, on a nondiscriminatory basis, through license arrangements to other companies which wish to provide GEM service. (Request, para. 65). Some of these technological advances could, after development at 900 MHz, be readily adapted for use in other frequency bands, where they would be capable of increasing the capacity and expanding the service capabilities of channels already devoted to paging. These techniques thus promise the eventual widespread conservation of paging spectrum, permitting the provision of additional service without the allocation of new frequencies.

The Joint Venture reiterates its request for a pioneer's preference for a single nationwide 25 kHz channel for the provision of GEM services. If for any reason the Commission determines that the public interest would be best served by declining to make a nationwide allocation but by making regional allocations, the Joint Venture should receive a pioneer's preference for a regional license. If the regions are established by time zone, the Joint Venture would express its preference for a license for the Eastern time zone. This preference is prompted by Message Center's concentration of business in that zone. In addition, the Joint Venture is engaged in discussions with a Canadian paging company concerning possible coordination of use of a nationwide or regional paging channel between the two countries. An Eastern time zone regional allocation would offer the possibility of such coordination with access to a highly populated area of Canada. If regions are established by some other process than proposed or anticipated herein, the Joint Venture will at the proper time choose the pertinent area for preference licensing.

The Joint Venture previously proposed the allocation of three nationwide 25 kHz channels and three regional 25 kHz channels to be dedicated to GEM technology. (Request, para. 66). In evaluation of these comments on the tentative pioneer's preference decisions, the Commission can note that grant of GEM's proposal and preference would be consistent with

the grant of the other preference requests made by the various parties which filed in response to Telocator's Petition. Even if all preference requests are granted, and appropriate decisions made concerning which proposals merit nationwide licenses and which regional, substantial spectrum would be available for other applicants to also apply for these various advanced paging systems. In particular, if the Commission were to limit all of the preference applicants to regional channels, the grant of all of the requested preferences would have virtually no preclusive impact on the establishment of a varied and highly competitive AMS marketplace.

In any event, the pioneer's preference should provide that the Joint Venture's application for a construction permit/license for GEM service on the newly allocated frequencies will not be subject to mutually exclusive applications, pursuant to Section 1.402(d) of the rules.

WHEREFORE, the premises considered, the Commission should reverse its tentative denial and grant the Joint Venture a pioneer's preference for its GEM proposal.

Respectfully submitted,

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November 9, 1992



## CERTIFICATE OF SERVICE

I, Artie King, Secretary in the law offices of Schwartz, Woods & Miller, do hereby certify that I have on this 9th day of November 1992 sent by First Class United States mail, postage prepaid, copies of the foregoing **COMMENTS ON TENTATIVE DECISION FOR 900 MHZ NARROWBAND PCS PIONEER'S PREFERENCES** to the following:

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